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SUBJECT: TRADE AGREEMENT COMPLIANCE AND MONITORING --
U.S-CHILE FTA

REF: STATE 152063

¶1. Per reftel, Post is providing an overview of the U.S.-Chile Free Trade Agreement, information on compliance and monitoring efforts and Post's POC for FTA-related issues.

¶2. The U.S.-Chile Free Trade Agreement came into force on January 1, 2004. In the two and a half years since, bilateral trade is up over 100 percent. U.S. and Chilean exports have both enjoyed strong double digit growth. The growth in trade has far exceeded all projections. There are no indications that continued strong bilateral trade growth will abate in 2006. The U.S. remains the largest single country market for Chilean exports. In 2005, just over seventeen percent of Chilean exports went to the U.S.

¶3. The strong surge in U.S. exports to Chile has not been followed by a similar jump in U.S. investment in Chile. On the contrary, new U.S. investment in Chile in 2005 hit a ten-year low. The U.S. remains the largest investor in Chile over the last twenty-five year period, but current U.S. investment interest in Chile is low. One reason for that may be the lack of Chilean enforcement of intellectual property rights, the one dark lining of an otherwise highly-successful FTA. However, beyond anecdotal evidence from some U.S. pharmaceutical companies, Post finds it difficult to draw a direct correlation between the decline in new U.S. investment and the lack of IPR protection.

¶4. The USG believes Chile is not complying with its FTA obligations in the area of intellectual property right protection. Chile has been on the Watch List under the Special 301 Process since 1989. However, in recent years and despite specific provisions in the FTA, there have been a number of violations of pharmaceutical patents held by U.S. companies operating in Chile. For some of these companies, the losses have been significant. The Government of Chile has taken some limited steps to address the problem, but these steps have been belated and it is far from clear they form the necessary and obligatory framework under the FTA to protect intellectual property rights in Chile. In April 2005, the USG announced that Chile would be subject to an Out of Cycle Review under the Special 301 process. That OCR is ongoing and can be expected to conclude before the end of ¶2006.

¶5. On the specific issue of IPR protection, Post has an IPR Committee that consists of the Foreign Commercial Service, Foreign Agricultural Service, Legatt and State (the economic and public affairs sections). That committee meets on a regular basis to discuss compliance with the FTA and to develop strategies, including training, to advance IPR protection in Chilean society and government.

¶6. Post's main POC for periodic reporting and general compliance issues related to the FTA is Senior Economic Officer Michael Keller, KellerMR@state.gov. Mr. Keller's telephone numbers are: office (56-2) 330-3425, cell (56) 9-158-4650, home (56-2) 955-0808 and fax (56-2) 330-3118.
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